



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CONTRACTING AGENCY  
HEADQUARTERS, NORTHERN REGION  
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**SFCA-NR**

**28 March 2005**

**Northern Region Contracting Policy Letter 37-1 (NR CPL 37-1)**

**SUBJECT:** Performance Based Service Acquisitions (PBSAs)

**Applicability.** This policy letter applies to all contracting activities of the Army Contracting Agency Northern Region. It also applies to contracting activities that are under the operational control of the ACA NR Headquarters.

1. **Purpose.** To reinforce the statutory and regulatory requirement to acquire services through performance-based contracting methods.

2. **References.**

- a. FAR 37.102.
- b. DFARS 37.170.
- c. USD (ATL)) Letter dated 19 August 2003, Subject: Performance Based Service Acquisitions, signed by Mr. Michael Wynne.
- d. ASAALT Letter dated 10 Mar 2004, Subject: Performance Based Service Acquisitions (PBSA), signed by Mr. Claude Bolton, Jr.

3. **Definitions.** "Performance-based contracting means structuring all aspects of an acquisition around the purpose of the work to be performed with the contract requirements set forth, in clear, specific, and objective terms with measurable outcomes as opposed to either the manner by which the work is to be performed or broad and imprecise statements of work." [FAR 2.101]

4. **Policy.**

a. Ref. 2.a. explicitly states that performance-based contracting is the preferred method for acquiring services and enumerates the order of precedence established by the implementing statute, Public Law 106-398, Section 821. The order of precedence requires priority consideration be given to a firm-fixed price performance-based contract or task order; lower priority to a non firm-fixed price performance-based contract or task order; and finally, the lowest of priority to a contract or task order that is not performance-based.

b. Ref. 2.b. defines approval requirements when contemplating the acquisition of non-performance based services through the use of a contract or task order.

c. The acquisition of services has become a significant component of what the Defense Department acquires and as such requires additional attention. To that end, the Acting Under Secretary of Defense, Acquisition, Technology and Logistics (Mr. Wynne) issued a letter, Ref. 2.c., which among other things, established goals for the use of PBSAs and further detailed those services that were not suited for the use of PBSA by Federal Procurement Data System (FPDS) service codes.

d. Mr. Wynne established the Department's goals in Ref. 2.c. based on the percent of dollars awarded as follows: 25% in FY 2003; 35% in FY 2004; and 50% in FY 2005. Mr. Bolton reiterated these goals in Ref. 2.d. and stated that while the Army dollars for FY 2003 exceeded the established PBSA goal, greater attention and diligence would be necessary to reach the goals set for FY 2004 and FY 2005.

e. While some services are not suited for the use of PBSA; those situations are few. For example, at a minimum, all of our commercial contracts should be performance-based. You are strongly encouraged to embrace the use of performance-based initiatives and ensure that each award is properly coded on the DD 350 so that Northern Region receives credit for your efforts in this regard.

f. This NR CPL will be reviewed at least annually for changes and updates.

## **5. Responsibilities.**

### **a. Contracting Officer/Chief of the Contracting Office.**

(1) Review incoming service requirements for use of performance-based contracting methods.

(2) Comply with regulatory guidance on PBSAs.

(3) Properly code DD 350s to indicate the use of PBSAs.

### **b. Installation Analyst, Contract Operations Division.**

(1) Review service requirements for use of performance-based contracting methods as a part of the review required by NR CPL 1-2.

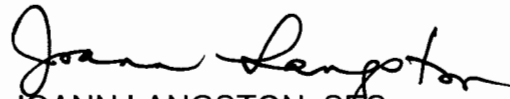
(2) Review service requirements for use of performance-based contracting methods during the Contract Management Review (CMR).

### **c. PARC.**

(1) Oversee the use of PBSA initiatives by the Northern Region.

(2) Monitor DOCs quarterly for progress in achieving the FY 2005 PBSA goal of 50%.

**6. Proponent.** The primary point of contact for coordinating revisions or updates to this contracting policy letter is Ms. Mary Paige, Procurement Analyst at (757) 788-3508.

A handwritten signature in black ink, appearing to read "Joann Langston".

JOANN LANGSTON, SES  
Principal Assistant  
Responsible for Contracting